

# Fiscal Note

*Fiscal Services Division*



---

**HF 767** – Obscenity and Possession of Child Pornography (LSB1370HV)  
Analyst: Beth Lenstra (Phone: 515-281-6301) ([beth.lenstra@legis.state.ia.us](mailto:beth.lenstra@legis.state.ia.us))  
Fiscal Note Version – New

---

## **Description**

**House File 767** adds the terms “visual depiction” and “any live transmission” to the definitions of obscene material and prohibited sexual acts. The Bill amends the crime of sexual exploitation of a minor to include certain visual depictions rather than an optical storage system.

## **Background**

### **Correctional and Fiscal Information**

1. Expanding the definition of the crime increases the likelihood there will be more convictions. Substituting “visual depiction” for “optical storage system” may substantially increase the number of charges that may be filed for sexual exploitation of a minor. However, there is no data with which to estimate the number of additional convictions.
2. Offenders convicted of sexual exploitation of a minor are subject to enhanced penalties of sex offender treatment, intensive supervision, and electronic monitoring. Sex offenders convicted of misdemeanors and Class D felonies are subject to a special sentence of 10 years supervision, after the original term is served. Sex offenders convicted of Class C felonies or higher are subject to life time supervision, after the original term is served. All of these offenders are required to comply with the terms of the Sex Offender Registry.
3. Current law provides a graduated system of penalties for sexual exploitation of a minor, ranging from an aggravated misdemeanor to a Class C felony.
4. During FY 2008, 17 offenders were convicted of sexual exploitation of a minor as follows: 11 aggravated misdemeanors, three Class D felonies, and three Class C felonies.
5. The average cost to the court system for a misdemeanor bench trial is \$180, and a jury trial costs \$1,000. The average cost to the court system for a felony bench trial is \$360, and a jury trial is \$2,400.
6. The average cost per case for indigent defense for an aggravated misdemeanor or Class D felony case is \$1,200. The average cost per case for a Class C felony case is \$1,800.
7. The average daily cost for probation or parole is \$3.75. The average length of stay on probation for an aggravated misdemeanor is 24.1 months, a Class D felon is 35.5 months, and 35.6 months for a Class C felon.
8. The marginal cost (support budget only) for the State prison system is \$18.72 per day. The average length of stay in prison is 14.2 months for aggravated misdemeanor sex offenders. The average length of stay on parole is 5.6 months. The average length of stay in prison is 31.5 months for sex offenders who are Class D felons. The average length of stay on parole is 15.1 months. The average length of stay in prison is 53.9 months for sex offenders who are Class C felons. The average length of stay on parole is 23.4 months.
9. The average length of stay for a 10-year special sentence is 4.8 years. This sentence begins once the original sentence is served. Cost calculations for Class C felons do not reflect lifetime supervision because it is not known how long these offenders will live.

10. The cost per Global Positioning System (GPS) bracelet is \$7.00 per day. The current practice of the Department of Corrections is to electronically monitor all sex offenders using the GPS bracelet while they are under any type of supervision in the community.

#### **Minority Data Information**

1. Iowa's prison population was 8,740 offenders on June 30, 2008. Men comprised 91.3% of the population. According to the Department of Corrections (DOC), the racial composition of the prison system was: 72.3% white; 25.2% black; 0.8% Asian or Pacific Islander; and 1.6% American Indian or Alaska Native; and 0.1% was unknown.
2. The majority of sex offenders admitted to DOC custody or supervision are White non-Hispanic males.

#### **Assumptions**

##### **Correctional and Fiscal Information**

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. The criminal sentencing change takes effect July 1, 2009.

##### **Minority Data Information**

1. The minority impact is expected to mirror current statistics.
2. Approximately 14.0% of Iowa's population has at least one disability. The number of offenders that have a disability and are convicted under this Bill may be 14.0%.

#### **Summary of Impacts**

##### **Correctional Impact**

The correctional impact may be significant but cannot be estimated. To the extent that local law enforcement and prosecutors enforce the expanded definition of obscenity and child pornography, there will be a correctional impact. Any increase in the sex offender population will have a significant correctional impact due to the long length of stay under correctional supervision.

##### **Minority Impact**

The minority impact is expected to be minimal because the majority of sex offenders are white males.

##### **Fiscal Impact**

The fiscal impact of House File 767 may be significant but cannot be estimated because the increase in the number of offenders cannot be predicted. However, the average cost for one new aggravated misdemeanor sex offender conviction is \$28,500. The average cost for one new Class D felon sex offender conviction is \$38,000. The average cost for one new Class C felon sex offender conviction is \$46,000.

The costs will be incurred across multiple fiscal years for correctional supervision. These figures do not include the costs of any intensive supervision, sex offender treatment, and the costs of compliance with the terms of the Sex Offender Registry. These figures also do not include the potential cost of any revocations to prison or jail that may occur while the offender is on extended community supervision. Costs are a function of the amount of time the offender is required to be under correctional supervision and wear a GPS monitoring device.

## **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Judicial Branch  
Office of the State Public Defender

/s/ Holly M. Lyons

---

March 23, 2009

---

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56, Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

---